

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

INMAR, INC. and COLLECTIVE BIAS, INC.,

Plaintiffs,

-v-

MONICA MURPHY VARGAS and MLW
SQUARED, INC. d/b/a AHALOGY,

Defendants.

Case No.: 18-cv-02306

Judge: Hon. Charles R. Norgle, Sr.

**PLAINTIFFS' MOTION TO SET A DATE FOR AN INITIAL STATUS HEARING AND
TO ADJOURN THE DEADLINE TO SUBMIT A FINAL PRE-TRIAL ORDER AND
JURY INSTRUCTIONS**

Plaintiffs Inmar, Inc. and Collective Bias, Inc. (collectively, "Plaintiffs") respectfully move this Court to adjourn the deadline to submit a final pre-trial order and jury instructions, and move this Court to set a date for an initial status hearing to set discovery deadlines, establish a discovery plan, and implement an ESI protocol. Plaintiffs state as follows in support of this Motion:

1. Plaintiffs filed their Complaint for Injunctive and Other Relief on March 29, 2018. Dkt. No. 1.
2. Defendants Monica Murphy Vargas ("Murphy") and MLW Squared, Inc. d/b/a Ahalogy ("Ahalogy" and together with Murphy, "Defendants"), sought (and were granted) an extension of time to respond to the Complaint, and on May 24, 2018 filed a joint motion to dismiss.
3. Briefing on Defendants' motion to dismiss concluded on August 3, 2018.
4. On December 21, 2018, the Court issued its ruling, denying the motion with regard to Counts I, II, and III; denying in part and granting in part the motion with regard to Counts IV and VI; and granting the motion with regard to Counts V, VII, VIII, IX, and X.

5. In that Order, the Court directed the parties to “submit a final pretrial order with a set of jury instructions on or before March 1, 2019” and stated that “a trial date in Spring of 2019 may be set upon review of the submitted pretrial order.” Dkt. No. 39.

6. The parties, however, did not engage in any discovery during the pendency of the Defendants’ joint motion to dismiss: the Defendants refused to participate in the scheduling of a Rule 26 conference while the motion to dismiss was pending. The completion of a Rule 26 conference by the parties is a precursor to beginning discovery pursuant to the Federal Rules of Civil Procedure. *See* Fed. R. Civ. P. 26(d)(1). Further, no initial status hearing was set by the Court to address the parameters of discovery or deadlines for completion.

7. Upon issuance of the Court’s order denying the Defendants’ motion to dismiss, Counsel for Plaintiffs again contacted Counsel for Defendants to set a date for the Rule 26 Conference in order to commence discovery.

8. Counsel for the parties convened by telephone on January 22, 2019. Counsel for Defendants refused to participate substantively in discussions regarding the parameters of discovery or proposed deadlines—their stated rationale for this position was that there was no need to discuss deadlines because this Court already set a trial date for Spring of 2019.

9. Rule 1 of the Federal Rules of Civil Procedure directs that the Rules should “should be construed, administered, and employed by the court and the parties to secure the just, speedy, and inexpensive determination of every action and proceeding.” Fed. R. Civ. P. 1. Submission of a pre-trial order and jury instructions prior to Plaintiffs being afforded the opportunity to develop their case through discovery would violate this fundamental principle. “Good cause” therefore exists to adjourn the deadline to submit a final pre-trial order and jury instructions. *See* Fed R. Civ. P. 6(b)(1).

WHEREFORE, for the foregoing reasons, Plaintiffs respectfully request that this Court adjourn the deadline to submit a final pre-trial order and jury instructions, and move this Court instead to set a date for an initial status hearing as soon as possible to set discovery deadlines, establish a discovery plan, and implement an ESI protocol.

Dated: January 24, 2019

Respectfully Submitted,

/s/ Justin O. Kay

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on January 24, 2019, I caused a true and correct copy of the foregoing to be filed on the Court's CM/ECF system, which served notice on all counsel of record.

By: /s/ Justin O. Kay